

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Mansoor Safarazi)
SERIAL NO.: 10/609,133) Group Art Unit:
FILED: June 26, 2003) 1634
FOR: OPTINEURIN AND GLAUCOMA) Before the Examiner:
Sitton

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT
PURSUANT TO 35 U.S.C. §121

Sir:

This is in response to the Restriction Requirement dated March 27, 2006. The Examiner contends that: Group I, Claims 1-4, and 8-10 drawn to an isolated nucleic acid, classified in Class 536, subclass 23.1; Group II, Claims 5-7, drawn to an isolated polypeptide, classified in Class 530, subclass 350; Group III, Claims 13-14, 22, 26, 30-31, 35-36, drawn to methods of detecting the presence or absence of optineurin associated glaucoma, using nucleic acid based methods, classified in Class 435, subclass 6; Group IV, Claims 19, 31-33, 37-38, drawn to methods of detecting the presence or absence of optineurin associated glaucoma, using protein acid based methods, classified in Class 435, subclass 7.1; Group 5, Claims 29 and 34, drawn to methods of detecting the presence or absence of optinerurin associated glaucoma, using protein acid based methods and nucleic acid based methods, classified in Class 435, subclass 7.1, and class 435, subclass 6, respectively; Group VI, Claims 39 and 40, drawn to treating glaucoma with an optineurin therapeutic agent, classified in class 514, subclass 44; and Group VII, Claims 41-43, drawn to a computer readable medium, classified in Class 365, subclass 94.

Pursuant to 35 U.S.C. §121 the Examiner requires restriction between Groups I through VII.

Accordingly, pursuant to 35 U.S.C. §121, Applicants hereby elect to prosecute Group I. This election is being made without prejudice to Applicants' rights with respect to Groups II-VII, including the right to file divisional application(s) thereon.

Additionally, the Examiner requires that if one of Groups I-IV and VII is elected, they are subjected to further restriction to a specific SEQ ID NO. The Examiner states "Absent evidence to the contrary, each such nucleotide sequence are presumed to represent an independent and distinct invention". Applicants traverse this restriction on the grounds that the three sequences listed in Claim 1 are not distinct and independent inventions.

As evidence that SEQ ID NOs: 1, 3 and 5 do not represent distinct inventions, Applicants refer to Paragraph 16 of the specification, part of which is reproduced below:

SEQ ID NO: 1 encodes isoform 1 of optineurin, including a 5' untranslated region at nucleotides 1-310, the encoded isoform (SEQ ID NO: 2) at nucleotides 311 to 2044, and the 3' untranslated region at nucleotides 2045-2077. SEQ ID NO: 3 encodes isoform 2 of optineurin, including a 5' untranslated region at nucleotides 1-89, the encoded isoform (SEQ ID NO: 4) at nucleotides 90-1823, and the 3' untranslated region at nucleotides 1824-1856. SEQ ID NO: 5 encodes isoform 3 of optineurin, including a 5' untranslated region at nucleotides 1-241, the encoded isoform (SEQ ID NO: 6) at nucleotides 242-1975, and the 3' untranslated region at nucleotides 1976-2008. These sequences are unaltered or wild type optineurin sequences.

These optineurin sequences in SEQ ID NOs: 1, 3, and 5 are merely different isoforms encoding wild type optineurin. They are not distinct inventions, but are equivalent in that the claim limitation "wherein the nucleic acid molecule has an alteration in at least one nucleotide, and wherein the alteration is indicative of the presence of an optineurin-associated glaucoma or of an optineurin-associated risk of glaucoma" can occur within the background of any of these three optineurin isoforms.

Thus, Applicants submit that these three SEQ ID NOs are not properly subject to a restriction requirement, and would more properly be subject to an election of species as they are all species of optineurin genes.

Should the Examiner maintain the restriction requirement, Applicants elect SEQ ID NO:1.

If there are any charges with respect to this Restriction Requirement, or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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